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Senate Engrossed House Bill

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

# HOUSE BILL 2460

AN ACT

AMENDING SECTION 28-2154, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 7, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-2154.01; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES; RELATING TO MOTOR VEHICLE REGISTRATION; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-2154, Arizona Revised Statutes, is amended to  
3 read:

4 28-2154. Special registrations

5 A. A nonresident who purchases an unregistered vehicle in this state  
6 for removal to the state of residence of the purchaser ~~may~~ SHALL obtain a  
7 special thirty day nonresident registration ~~of~~ PERMIT FOR the vehicle. The  
8 nonresident ~~may~~ SHALL obtain ~~this~~ THE special THIRTY DAY NONRESIDENT  
9 registration PERMIT by applying to the department, TO AN AUTHORIZED THIRD  
10 PARTY or to a motor vehicle dealer as defined in section 28-4301 and by  
11 paying the fees prescribed by section 28-2003. AN AFFIDAVIT IN A FORM  
12 PRESCRIBED BY THE DIRECTOR SHALL ACCOMPANY the application AND shall ~~include~~  
13 ~~an affidavit of the purchaser containing~~ CONTAIN the following statements:

14 1. The purchaser is not a resident of this state as defined in section  
15 28-2001. FOR THE PURPOSES OF THIS SECTION AND SECTION 28-2154.01, THE  
16 PURCHASER SHALL PRESENT TO THE DEPARTMENT, AN AUTHORIZED THIRD PARTY OR A  
17 MOTOR VEHICLE DEALER, A DRIVER LICENSE OR OTHER EVIDENCE PRESCRIBED BY THE  
18 DIRECTOR SHOWING THAT THE PURCHASER IS NOT A RESIDENT OF THIS STATE.

19 2. The vehicle is purchased to be registered out of state WITHIN  
20 THIRTY DAYS AFTER THE ISSUANCE OF THE SPECIAL THIRTY DAY NONRESIDENT  
21 REGISTRATION PERMIT.

22 3. The vehicle is not purchased for transfer to a resident of this  
23 state.

24 4. THE PURCHASER IS LIABLE FOR ANY TAX, PENALTY AND INTEREST THAT IS  
25 DUE UNDER TITLE 42, CHAPTER 5 IF THE PURCHASER REGISTERS THE VEHICLE IN THIS  
26 STATE WITHIN THREE HUNDRED SIXTY-FIVE DAYS AFTER THE ISSUANCE OF THE SPECIAL  
27 THIRTY DAY NONRESIDENT REGISTRATION PERMIT.

28 ~~4.~~ 5. Other information that the director deems necessary.

29 B. At the time of application for a special thirty day nonresident  
30 registration PERMIT, the purchaser shall submit for inspection proper  
31 evidence of ownership of the vehicle to be registered. The special THIRTY  
32 DAY NONRESIDENT registration PERMIT is valid for not more than thirty days  
33 from the date of issuance and ~~may~~ SHALL be ~~evidenced~~  
34 BY the director ~~deems necessary or advisable~~. A person who obtains a SPECIAL  
35 THIRTY DAY nonresident registration PERMIT on a semitrailer that has been  
36 manufactured in this state may use the semitrailer for commercial purposes if  
37 the semitrailer is being used to transport goods from this state, subject to  
38 the payment of any taxes prescribed by this title.

39 C. An enrolled member of an Indian tribe who resides on the Indian  
40 reservation established for that tribe and who purchases an unregistered  
41 vehicle in this state for removal to the Indian reservation ~~may~~ SHALL obtain  
42 a special thirty day NONRESIDENT registration permit for the vehicle. The  
43 member may obtain ~~this~~ THE special THIRTY DAY NONRESIDENT registration PERMIT  
44 by applying to the department, TO AN AUTHORIZED THIRD PARTY or to any motor

1 vehicle dealer as defined by section 28-4301 and by payment ~~by the motor~~  
2 ~~vehicle dealer~~ of the fees prescribed by section 28-2003.

3 D. A resident who does not have complete documentation for issuance of  
4 an Arizona title and registration on a noncommercial vehicle but who has  
5 established ownership of the vehicle to the satisfaction of the department  
6 may receive a special ninety day resident registration by applying and paying  
7 the fee prescribed by section 28-2003 to the department. The basis of  
8 assessment for the full annual registration fee and vehicle license tax  
9 relates back to the date of issuance of the first special ninety day resident  
10 registration.

11 E. A resident may receive a second consecutive special ninety day  
12 resident registration on application and payment of the fee prescribed by  
13 section 28-2003 if:

14 1. The person has applied for a bonded title and the title has not  
15 been issued during the first ninety day registration.

16 2. The person is awaiting settlement of an estate.

17 3. The person is awaiting lien clearance.

18 4. The person is awaiting a hearing decision as a result of a title  
19 complaint.

20 5. The person is awaiting the issuance of honorary consular official  
21 special license plates.

22 6. The director determines other circumstances justify the issuance.

23 F. At the discretion of the director, a resident may receive more than  
24 two consecutive special ninety day resident registrations for a vehicle in a  
25 twelve month period.

26 G. If there is a judgment against a resident of this state in another  
27 state that requires suspension of the resident's vehicle registration, in  
28 lieu of suspension of the resident's vehicle registration the department may  
29 issue a special temporary registration for the resident's vehicle that is  
30 valid for a period of not more than one hundred eighty days.

31 Sec. 2. Title 28, chapter 7, article 5, Arizona Revised Statutes, is  
32 amended by adding section 28-2154.01, to read:

33 28-2154.01. Special thirty day nonresident registration  
34 permits; procedures

35 A. A DEALER OR AN AUTHORIZED THIRD PARTY THAT ISSUES A SPECIAL THIRTY  
36 DAY NONRESIDENT REGISTRATION PERMIT PURSUANT TO SECTION 28-2154 SHALL SEND AN  
37 ELECTRONIC RECORD OF THE PERMIT TO THE DEPARTMENT THROUGH AN AUTHORIZED THIRD  
38 PARTY OR THROUGH THE DEPARTMENT'S AUTHORIZED THIRD PARTY ELECTRONIC SERVICE  
39 PROVIDER.

40 B. THE DEPARTMENT, AN AUTHORIZED THIRD PARTY OR A DEALER SHALL NOT:

41 1. ISSUE, ASSIGN OR DELIVER A SPECIAL THIRTY DAY NONRESIDENT  
42 REGISTRATION PERMIT TO ANY PERSON OTHER THAN A BONA FIDE PURCHASER OR  
43 AUTHORIZED REPRESENTATIVE OF A BONA FIDE PURCHASER OF A VEHICLE WHO IS NOT A  
44 RESIDENT AS DEFINED IN SECTION 28-2001.

1           2. ISSUE A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT UNLESS  
2 THE PURCHASER FILES AN AFFIDAVIT AS PRESCRIBED IN SECTION 28-2154 AND  
3 PROVIDES ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT OF TRANSPORTATION  
4 OR THE DEPARTMENT OF REVENUE.

5           3. ISSUE AND AFFIX, AS PRESCRIBED IN SUBSECTION C OF THIS SECTION, A  
6 SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT UNLESS THE PERMIT IS  
7 RECORDED IN THE ELECTRONIC RECORDS OF THE DEPARTMENT.

8           C. A PERSON WHO ISSUES A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION  
9 PERMIT SHALL AFFIX OR INSERT, CLEARLY AND INDELIBLY, ON THE FACE OF EACH  
10 PERMIT THE DATE OF ISSUANCE AND EXPIRATION AND THE MAKE AND VEHICLE  
11 IDENTIFICATION NUMBER OF THE VEHICLE. THE SPECIAL THIRTY DAY NONRESIDENT  
12 REGISTRATION PERMIT SHALL NOT BEAR THE NAME OR ADDRESS OF THE PERSON WHO  
13 PURCHASED THE VEHICLE IN A POSITION THAT IS LEGIBLE FROM OUTSIDE OF THE  
14 VEHICLE.

15           D. A DEALER OR AUTHORIZED THIRD PARTY WHO ISSUES A SPECIAL THIRTY DAY  
16 NONRESIDENT REGISTRATION PERMIT SHALL MAINTAIN A RECORD, IN A FORM PRESCRIBED  
17 BY THE DIRECTOR, OF ALL SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMITS  
18 ISSUED BY THE DEALER OR AUTHORIZED THIRD PARTY AND A RECORD OF OTHER  
19 INFORMATION PERTAINING TO THE ISSUANCE OF SPECIAL THIRTY DAY NONRESIDENT  
20 REGISTRATION PERMITS THAT THE DEPARTMENT OF TRANSPORTATION OR THE DEPARTMENT  
21 OF REVENUE REQUIRES.

22           E. THE DEALER OR AUTHORIZED THIRD PARTY SHALL KEEP EACH RECORD FOR AT  
23 LEAST THREE YEARS AFTER THE DATE OF ENTRY OF THE RECORD.

24           F. A DEALER OR AUTHORIZED THIRD PARTY SHALL ALLOW THE DIRECTOR OF THE  
25 DEPARTMENT OF TRANSPORTATION OR THE DIRECTOR OF THE DEPARTMENT OF REVENUE  
26 FULL AND FREE ACCESS TO THE RECORDS DURING REGULAR BUSINESS HOURS.

27           G. THE ELECTRONIC RECORD IS WRITTEN NOTICE OF THE REMOVAL OF THE  
28 VEHICLE FROM THIS STATE FOR USE IN THE PURCHASER'S STATE OF RESIDENCE AND  
29 RELIEVES THE DEALER OR AUTHORIZED THIRD PARTY OF LIABILITY IN ACCORDANCE WITH  
30 SECTION 42-5009.

31           H. IF A PURCHASER REGISTERS THE VEHICLE IN THIS STATE WITHIN THREE  
32 HUNDRED SIXTY-FIVE DAYS AFTER THE ISSUANCE OF THE SPECIAL THIRTY DAY  
33 NONRESIDENT REGISTRATION PERMIT, THE PURCHASER IS LIABLE IN AN AMOUNT EQUAL  
34 TO ANY TAX, PENALTY AND INTEREST THAT THE MOTOR VEHICLE DEALER OR AUTHORIZED  
35 THIRD PARTY WOULD HAVE BEEN REQUIRED TO PAY UNDER TITLE 42, CHAPTER 5. AT  
36 THE TIME OF ISSUING THE SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT, A  
37 MOTOR VEHICLE DEALER OR AUTHORIZED THIRD PARTY SHALL INFORM THE PURCHASER OF  
38 THE LIABILITY DESCRIBED IN THIS SECTION.

39           I. THE DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF REVENUE  
40 SHALL JOINTLY DEVELOP AND PRESCRIBE FORMS FOR THE MOTOR VEHICLE DEALER, THE  
41 AUTHORIZED THIRD PARTY AND THE PURCHASER TO COMPLETE FOR THE PROPER  
42 ADMINISTRATION AND ENFORCEMENT OF THIS SECTION.

1 J. COMPLIANCE WITH THIS SECTION AND SECTION 28-2154 ALLOWS DELIVERY OF  
2 THE VEHICLE TO A NONRESIDENT PURCHASER IN THIS STATE AND RETAINS THE  
3 APPLICABLE EXEMPTIONS PURSUANT TO SECTION 42-5061, SUBSECTION A, PARAGRAPH  
4 28.

5 Sec. 3. Section 42-5061, Arizona Revised Statutes, is amended to read:  
6 42-5061. Retail classification; definitions

7 A. The retail classification is comprised of the business of selling  
8 tangible personal property at retail. The tax base for the retail  
9 classification is the gross proceeds of sales or gross income derived from  
10 the business. The tax imposed on the retail classification does not apply to  
11 the gross proceeds of sales or gross income from:

12 1. Professional or personal service occupations or businesses which  
13 involve sales or transfers of tangible personal property only as  
14 inconsequential elements.

15 2. Services rendered in addition to selling tangible personal property  
16 at retail.

17 3. Sales of warranty or service contracts. The storage, use or  
18 consumption of tangible personal property provided under the conditions of  
19 such contracts is subject to tax under section 42-5156.

20 4. Sales of tangible personal property by any nonprofit organization  
21 organized and operated exclusively for charitable purposes and recognized by  
22 the United States internal revenue service under section 501(c)(3) of the  
23 internal revenue code.

24 5. Sales to persons engaged in business classified under the  
25 restaurant classification of articles used by human beings for food, drink or  
26 condiment, whether simple, mixed or compounded.

27 6. Business activity which is properly included in any other business  
28 classification which is taxable under article 1 of this chapter.

29 7. The sale of stocks and bonds.

30 8. Drugs and medical oxygen, including delivery hose, mask or tent,  
31 regulator and tank, on the prescription of a member of the medical, dental or  
32 veterinarian profession who is licensed by law to administer such substances.

33 9. Prosthetic appliances as defined in section 23-501 prescribed or  
34 recommended by a health professional licensed pursuant to title 32, chapter  
35 7, 8, 11, 13, 14, 15, 16, 17 or 29.

36 10. Insulin, insulin syringes and glucose test strips.

37 11. Prescription eyeglasses or contact lenses.

38 12. Hearing aids as defined in section 36-1901.

39 13. Durable medical equipment which has a centers for medicare and  
40 medicaid services common procedure code, is designated reimbursable by  
41 medicare, is prescribed by a person who is licensed under title 32, chapter  
42 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
43 customarily used to serve a medical purpose, is generally not useful to a  
44 person in the absence of illness or injury and is appropriate for use in the  
45 home.

1       14. Sales to nonresidents of this state for use outside this state if  
2 the vendor ships or delivers the tangible personal property out of this  
3 state.

4       15. Food, as provided in and subject to the conditions of article 3 of  
5 this chapter and section 42-5074.

6       16. Items purchased with United States department of agriculture food  
7 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
8 958) or food instruments issued under section 17 of the child nutrition act  
9 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
10 section 1786).

11       17. Textbooks by any bookstore that are required by any state  
12 university or community college.

13       18. Food and drink to a person who is engaged in business which is  
14 classified under the restaurant classification and which provides such food  
15 and drink without monetary charge to its employees for their own consumption  
16 on the premises during the employees' hours of employment.

17       19. Articles of food, drink or condiment and accessory tangible  
18 personal property to a school district if such articles and accessory  
19 tangible personal property are to be prepared and served to persons for  
20 consumption on the premises of a public school within the district during  
21 school hours.

22       20. Lottery tickets or shares pursuant to title 5, chapter 5,  
23 article 1.

24       21. The sale of precious metal bullion and monetized bullion to the  
25 ultimate consumer, but the sale of coins or other forms of money for  
26 manufacture into jewelry or works of art is subject to the tax. In this  
27 paragraph:

28       (a) "Monetized bullion" means coins and other forms of money which are  
29 manufactured from gold, silver or other metals and which have been or are  
30 used as a medium of exchange in this or another state, the United States or a  
31 foreign nation.

32       (b) "Precious metal bullion" means precious metal, including gold,  
33 silver, platinum, rhodium and palladium, which has been smelted or refined so  
34 that its value depends on its contents and not on its form.

35       22. Motor vehicle fuel and use fuel which are subject to a tax imposed  
36 under title 28, chapter 16, article 1, sales of use fuel to a holder of a  
37 valid single trip use fuel tax permit issued under section 28-5739, sales of  
38 aviation fuel which are subject to the tax imposed under section 28-8344 and  
39 sales of jet fuel which are subject to the tax imposed under article 8 of  
40 this chapter.

41       23. Tangible personal property sold to a person engaged in the business  
42 of leasing or renting such property under the personal property rental  
43 classification if such property is to be leased or rented by such person.

1       24. Tangible personal property sold in interstate or foreign commerce  
2 if prohibited from being so taxed by the Constitution of the United States or  
3 the constitution of this state.

4       25. Tangible personal property sold to:

5       (a) A qualifying hospital as defined in section 42-5001.

6       (b) A qualifying health care organization as defined in section  
7 42-5001 if the tangible personal property is used by the organization solely  
8 to provide health and medical related educational and charitable services.

9       (c) A qualifying health care organization as defined in section  
10 42-5001 if the organization is dedicated to providing educational,  
11 therapeutic, rehabilitative and family medical education training for blind,  
12 visually impaired and multihandicapped children from the time of birth to age  
13 twenty-one.

14       (d) A qualifying community health center as defined in section  
15 42-5001.

16       (e) A nonprofit charitable organization that has qualified under  
17 section 501(c)(3) of the internal revenue code and that regularly serves  
18 meals to the needy and indigent on a continuing basis at no cost.

19       (f) For taxable periods beginning from and after June 30, 2001, a  
20 nonprofit charitable organization that has qualified under section 501(c)(3)  
21 of the internal revenue code and that provides residential apartment housing  
22 for low income persons over sixty-two years of age in a facility that  
23 qualifies for a federal housing subsidy, if the tangible personal property is  
24 used by the organization solely to provide residential apartment housing for  
25 low income persons over sixty-two years of age in a facility that qualifies  
26 for a federal housing subsidy.

27       26. Magazines or other periodicals or other publications by this state  
28 to encourage tourist travel.

29       27. Tangible personal property sold to a person that is subject to tax  
30 under this article by reason of being engaged in business classified under  
31 the prime contracting classification under section 42-5075, or to a  
32 subcontractor working under the control of a prime contractor that is subject  
33 to tax under article 1 of this chapter, if the property so sold is any of the  
34 following:

35       (a) Incorporated or fabricated by the person into any real property,  
36 structure, project, development or improvement as part of the business.

37       (b) Used in environmental response or remediation activities under  
38 section 42-5075, subsection B, paragraph 6.

39       (c) Incorporated or fabricated by the person into any lake facility  
40 development in a commercial enhancement reuse district under conditions  
41 prescribed for the deduction allowed by section 42-5075, subsection B,  
42 paragraph 8.

43       28. The sale of a motor vehicle to:

44       (a) A nonresident of this state if the purchaser's state of residence  
45 does not allow a corresponding use tax exemption to the tax imposed by

1 article 1 of this chapter and if the nonresident has secured a special  
2 ~~thirty-day~~ THIRTY DAY nonresident registration ~~of~~ PERMIT FOR the vehicle AS  
3 PRESCRIBED by ~~applying according to section~~ SECTIONS 28-2154 AND 28-2154.01.

4 (b) An enrolled member of an Indian tribe who resides on the Indian  
5 reservation established for that tribe.

6 29. Tangible personal property purchased in this state by a nonprofit  
7 charitable organization that has qualified under section 501(c)(3) of the  
8 United States internal revenue code and that engages in and uses such  
9 property exclusively for training, job placement or rehabilitation programs  
10 or testing for mentally or physically handicapped persons.

11 30. Sales of tangible personal property by a nonprofit organization  
12 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)  
13 of the internal revenue code if the organization is associated with a major  
14 league baseball team or a national touring professional golfing association  
15 and no part of the organization's net earnings inures to the benefit of any  
16 private shareholder or individual.

17 31. Sales of commodities, as defined by title 7 United States Code  
18 section 2, that are consigned for resale in a warehouse in this state in or  
19 from which the commodity is deliverable on a contract for future delivery  
20 subject to the rules of a commodity market regulated by the United States  
21 commodity futures trading commission.

22 32. Sales of tangible personal property by a nonprofit organization  
23 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),  
24 501(c)(7) or 501(c)(8) of the internal revenue code if the organization  
25 sponsors or operates a rodeo featuring primarily farm and ranch animals and  
26 no part of the organization's net earnings inures to the benefit of any  
27 private shareholder or individual.

28 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
29 propagative material to persons who use those items to commercially produce  
30 agricultural, horticultural, viticultural or floricultural crops in this  
31 state.

32 34. Machinery, equipment, technology or related supplies that are only  
33 useful to assist a person who is physically disabled as defined in section  
34 46-191, has a developmental disability as defined in section 36-551 or has a  
35 head injury as defined in section 41-3201 to be more independent and  
36 functional.

37 35. Sales of tangible personal property that is shipped or delivered  
38 directly to a destination outside the United States for use in that foreign  
39 country.

40 36. Sales of natural gas or liquefied petroleum gas used to propel a  
41 motor vehicle.

42 37. Paper machine clothing, such as forming fabrics and dryer felts,  
43 sold to a paper manufacturer and directly used or consumed in paper  
44 manufacturing.



1        38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
2 sold to a qualified environmental technology manufacturer, producer or  
3 processor as defined in section 41-1514.02 and directly used or consumed in  
4 the generation or provision of on-site power or energy solely for  
5 environmental technology manufacturing, producing or processing or  
6 environmental protection. This paragraph shall apply for fifteen full  
7 consecutive calendar or fiscal years from the date the first paper  
8 manufacturing machine is placed in service. In the case of an environmental  
9 technology manufacturer, producer or processor who does not manufacture  
10 paper, the time period shall begin with the date the first manufacturing,  
11 processing or production equipment is placed in service.

12        39. Sales of liquid, solid or gaseous chemicals used in manufacturing,  
13 processing, fabricating, mining, refining, metallurgical operations, research  
14 and development and, beginning on January 1, 1999, printing, if using or  
15 consuming the chemicals, alone or as part of an integrated system of  
16 chemicals, involves direct contact with the materials from which the product  
17 is produced for the purpose of causing or permitting a chemical or physical  
18 change to occur in the materials as part of the production process. This  
19 paragraph does not include chemicals that are used or consumed in activities  
20 such as packaging, storage or transportation but does not affect any  
21 deduction for such chemicals that is otherwise provided by this section. For  
22 purposes of this paragraph, "printing" means a commercial printing operation  
23 and includes job printing, engraving, embossing, copying and bookbinding.

24        40. Through December 31, 1994, personal property liquidation  
25 transactions, conducted by a personal property liquidator. From and after  
26 December 31, 1994, personal property liquidation transactions shall be  
27 taxable under this section provided that nothing in this subsection shall be  
28 construed to authorize the taxation of casual activities or transactions  
29 under this chapter. In this paragraph:

30        (a) "Personal property liquidation transaction" means a sale of  
31 personal property made by a personal property liquidator acting solely on  
32 behalf of the owner of the personal property sold at the dwelling of the  
33 owner or upon the death of any owner, on behalf of the surviving spouse, if  
34 any, any devisee or heir or the personal representative of the estate of the  
35 deceased, if one has been appointed.

36        (b) "Personal property liquidator" means a person who is retained to  
37 conduct a sale in a personal property liquidation transaction.

38        41. Sales of food, drink and condiment for consumption within the  
39 premises of any prison, jail or other institution under the jurisdiction of  
40 the state department of corrections, the department of public safety, the  
41 department of juvenile corrections or a county sheriff.

42        42. A motor vehicle and any repair and replacement parts and tangible  
43 personal property becoming a part of such motor vehicle sold to a motor  
44 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4  
45 and who is engaged in the business of leasing or renting such property.

1           43. Livestock and poultry feed, salts, vitamins and other additives for  
2 livestock or poultry consumption that are sold to persons who are engaged in  
3 producing livestock, poultry, or livestock or poultry products or who are  
4 engaged in feeding livestock or poultry commercially. For purposes of this  
5 paragraph, "poultry" includes ratites.

6           44. Sales of implants used as growth promotants and injectable  
7 medicines, not already exempt under paragraph 8 of this subsection, for  
8 livestock or poultry owned by or in possession of persons who are engaged in  
9 producing livestock, poultry, or livestock or poultry products or who are  
10 engaged in feeding livestock or poultry commercially. For purposes of this  
11 paragraph, "poultry" includes ratites.

12           45. Sales of motor vehicles at auction to nonresidents of this state  
13 for use outside this state if the vehicles are shipped or delivered out of  
14 this state, regardless of where title to the motor vehicles passes or its  
15 free on board point.

16           46. Tangible personal property sold to a person engaged in business and  
17 subject to tax under the transient lodging classification if the tangible  
18 personal property is a personal hygiene item or articles used by human beings  
19 for food, drink or condiment, except alcoholic beverages, which are furnished  
20 without additional charge to and intended to be consumed by the transient  
21 during the transient's occupancy.

22           47. Sales of alternative fuel, as defined in section 1-215, to a used  
23 oil fuel burner who has received a permit to burn used oil or used oil fuel  
24 under section 49-426 or 49-480.

25           48. Sales of materials that are purchased by or for publicly funded  
26 libraries including school district libraries, charter school libraries,  
27 community college libraries, state university libraries or federal, state,  
28 county or municipal libraries for use by the public as follows:

29           (a) Printed or photographic materials, beginning August 7, 1985.

30           (b) Electronic or digital media materials, beginning July 17, 1994.

31           49. Tangible personal property sold to a commercial airline and  
32 consisting of food, beverages and condiments and accessories used for serving  
33 the food and beverages, if those items are to be provided without additional  
34 charge to passengers for consumption in flight. For purposes of this  
35 paragraph, "commercial airline" means a person holding a federal certificate  
36 of public convenience and necessity or foreign air carrier permit for air  
37 transportation to transport persons, property or United States mail in  
38 intrastate, interstate or foreign commerce.

39           50. Sales of alternative fuel vehicles, ~~as defined in section 43-1086,~~  
40 if the vehicle was manufactured as a diesel fuel vehicle and converted to  
41 operate on alternative fuel and equipment that is installed in a conventional  
42 diesel fuel motor vehicle to convert the vehicle to operate on an alternative  
43 fuel, as defined in section 1-215.

1        51. Sales of any spirituous, vinous or malt liquor by a person that is  
2 licensed in this state as a wholesaler by the department of liquor licenses  
3 and control pursuant to title 4, chapter 2, article 1.

4        52. Sales of tangible personal property to be incorporated or installed  
5 as part of environmental response or remediation activities under section  
6 42-5075, subsection B, paragraph 6.

7        53. Sales of tangible personal property by a nonprofit organization  
8 that is exempt from taxation under section 501(c)(6) of the internal revenue  
9 code if the organization produces, organizes or promotes cultural or civic  
10 related festivals or events and no part of the organization's net earnings  
11 inures to the benefit of any private shareholder or individual.

12        B. In addition to the deductions from the tax base prescribed by  
13 subsection A of this section, the gross proceeds of sales or gross income  
14 derived from sales of the following categories of tangible personal property  
15 shall be deducted from the tax base:

16        1. Machinery, or equipment, used directly in manufacturing,  
17 processing, fabricating, job printing, refining or metallurgical operations.  
18 The terms "manufacturing", "processing", "fabricating", "job printing",  
19 "refining" and "metallurgical" as used in this paragraph refer to and include  
20 those operations commonly understood within their ordinary meaning.  
21 "Metallurgical operations" includes leaching, milling, precipitating,  
22 smelting and refining.

23        2. Mining machinery, or equipment, used directly in the process of  
24 extracting ores or minerals from the earth for commercial purposes, including  
25 equipment required to prepare the materials for extraction and handling,  
26 loading or transporting such extracted material to the surface. "Mining"  
27 includes underground, surface and open pit operations for extracting ores and  
28 minerals.

29        3. Tangible personal property sold to persons engaged in business  
30 classified under the telecommunications classification and consisting of  
31 central office switching equipment, switchboards, private branch exchange  
32 equipment, microwave radio equipment and carrier equipment including optical  
33 fiber, coaxial cable and other transmission media which are components of  
34 carrier systems.

35        4. Machinery, equipment or transmission lines used directly in  
36 producing or transmitting electrical power, but not including distribution.  
37 Transformers and control equipment used at transmission substation sites  
38 constitute equipment used in producing or transmitting electrical power.

39        5. Neat animals, horses, asses, sheep, ratites, swine or goats used or  
40 to be used as breeding or production stock, including sales of breedings or  
41 ownership shares in such animals used for breeding or production.

42        6. Pipes or valves four inches in diameter or larger used to transport  
43 oil, natural gas, artificial gas, water or coal slurry, including compressor  
44 units, regulators, machinery and equipment, fittings, seals and any other  
45 part that is used in operating the pipes or valves.

1           7. Aircraft, navigational and communication instruments and other  
2 accessories and related equipment sold to:

3           (a) A person holding a federal certificate of public convenience and  
4 necessity, a supplemental air carrier certificate under federal aviation  
5 regulations (14 Code of Federal Regulations part 121) or a foreign air  
6 carrier permit for air transportation for use as or in conjunction with or  
7 becoming a part of aircraft to be used to transport persons, property or  
8 United States mail in intrastate, interstate or foreign commerce.

9           (b) Any foreign government for use by such government outside of this  
10 state.

11           (c) Persons who are not residents of this state and who will not use  
12 such property in this state other than in removing such property from this  
13 state. This subdivision also applies to corporations that are not  
14 incorporated in this state, regardless of maintaining a place of business in  
15 this state, if the principal corporate office is located outside this state  
16 and the property will not be used in this state other than in removing the  
17 property from this state.

18           8. Machinery, tools, equipment and related supplies used or consumed  
19 directly in repairing, remodeling or maintaining aircraft, aircraft engines  
20 or aircraft component parts by or on behalf of a certificated or licensed  
21 carrier of persons or property.

22           9. Railroad rolling stock, rails, ties and signal control equipment  
23 used directly to transport persons or property.

24           10. Machinery or equipment used directly to drill for oil or gas or  
25 used directly in the process of extracting oil or gas from the earth for  
26 commercial purposes.

27           11. Buses or other urban mass transit vehicles which are used directly  
28 to transport persons or property for hire or pursuant to a governmentally  
29 adopted and controlled urban mass transportation program and which are sold  
30 to bus companies holding a federal certificate of convenience and necessity  
31 or operated by any city, town or other governmental entity or by any person  
32 contracting with such governmental entity as part of a governmentally adopted  
33 and controlled program to provide urban mass transportation.

34           12. Groundwater measuring devices required under section 45-604.

35           13. New machinery and equipment consisting of tractors, tractor-drawn  
36 implements, self-powered implements, machinery and equipment necessary for  
37 extracting milk, and machinery and equipment necessary for cooling milk and  
38 livestock, and drip irrigation lines not already exempt under paragraph 6 of  
39 this subsection and that are used for commercial production of agricultural,  
40 horticultural, viticultural and floricultural crops and products in this  
41 state. In this paragraph:

42           (a) "New machinery and equipment" means machinery and equipment which  
43 have never been sold at retail except pursuant to leases or rentals which do  
44 not total two years or more.

1 (b) "Self-powered implements" includes machinery and equipment that  
2 are electric-powered.

3 14. Machinery or equipment used in research and development. In this  
4 paragraph, "research and development" means basic and applied research in the  
5 sciences and engineering, and designing, developing or testing prototypes,  
6 processes or new products, including research and development of computer  
7 software that is embedded in or an integral part of the prototype or new  
8 product or that is required for machinery or equipment otherwise exempt under  
9 this section to function effectively. Research and development do not  
10 include manufacturing quality control, routine consumer product testing,  
11 market research, sales promotion, sales service, research in social sciences  
12 or psychology, computer software research that is not included in the  
13 definition of research and development, or other nontechnological activities  
14 or technical services.

15 15. Machinery and equipment that are purchased by or on behalf of the  
16 owners of a soundstage complex and primarily used for motion picture,  
17 multimedia or interactive video production in the complex. This paragraph  
18 applies only if the initial construction of the soundstage complex begins  
19 after June 30, 1996 and before January 1, 2002 and the machinery and  
20 equipment are purchased before the expiration of five years after the start  
21 of initial construction. For purposes of this paragraph:

22 (a) "Motion picture, multimedia or interactive video production"  
23 includes products for theatrical and television release, educational  
24 presentations, electronic retailing, documentaries, music videos, industrial  
25 films, CD-ROM, video game production, commercial advertising and television  
26 episode production and other genres that are introduced through developing  
27 technology.

28 (b) "Soundstage complex" means a facility of multiple stages including  
29 production offices, construction shops and related areas, prop and costume  
30 shops, storage areas, parking for production vehicles and areas that are  
31 leased to businesses that complement the production needs and orientation of  
32 the overall facility.

33 16. Tangible personal property that is used by either of the following  
34 to receive, store, convert, produce, generate, decode, encode, control or  
35 transmit telecommunications information:

36 (a) Any direct broadcast satellite television or data transmission  
37 service that operates pursuant to 47 Code of Federal Regulations parts 25 and  
38 100.

39 (b) Any satellite television or data transmission facility, if both of  
40 the following conditions are met:

41 (i) Over two-thirds of the transmissions, measured in megabytes,  
42 transmitted by the facility during the test period were transmitted to or on  
43 behalf of one or more direct broadcast satellite television or data  
44 transmission services that operate pursuant to 47 Code of Federal Regulations  
45 parts 25 and 100.

1           (ii) Over two-thirds of the transmissions, measured in megabytes,  
2 transmitted by or on behalf of those direct broadcast television or data  
3 transmission services during the test period were transmitted by the facility  
4 to or on behalf of those services.

5 For purposes of subdivision (b) of this paragraph, "test period" means the  
6 three hundred sixty-five day period beginning on the later of the date on  
7 which the tangible personal property is purchased or the date on which the  
8 direct broadcast satellite television or data transmission service first  
9 transmits information to its customers.

10           17. Clean rooms that are used for manufacturing, processing,  
11 fabrication or research and development, as defined in paragraph 14 of this  
12 subsection, of semiconductor products. For purposes of this paragraph,  
13 "clean room" means all property that comprises or creates an environment  
14 where humidity, temperature, particulate matter and contamination are  
15 precisely controlled within specified parameters, without regard to whether  
16 the property is actually contained within that environment or whether any of  
17 the property is affixed to or incorporated into real property. Clean room:

18           (a) Includes the integrated systems, fixtures, piping, movable  
19 partitions, lighting and all property that is necessary or adapted to reduce  
20 contamination or to control airflow, temperature, humidity, chemical purity  
21 or other environmental conditions or manufacturing tolerances, as well as the  
22 production machinery and equipment operating in conjunction with the clean  
23 room environment.

24           (b) Does not include the building or other permanent, nonremovable  
25 component of the building that houses the clean room environment.

26           18. Machinery and equipment used directly in the feeding of poultry,  
27 the environmental control of housing for poultry, the movement of eggs within  
28 a production and packaging facility or the sorting or cooling of eggs. This  
29 exemption does not apply to vehicles used for transporting eggs.

30           19. Machinery or equipment, including related structural components,  
31 that is employed in connection with manufacturing, processing, fabricating,  
32 job printing, refining, mining, natural gas pipelines, metallurgical  
33 operations, telecommunications, producing or transmitting electricity or  
34 research and development and that is used directly to meet or exceed rules or  
35 regulations adopted by the federal energy regulatory commission, the United  
36 States environmental protection agency, the United States nuclear regulatory  
37 commission, the Arizona department of environmental quality or a political  
38 subdivision of this state to prevent, monitor, control or reduce land, water  
39 or air pollution.

40           20. Machinery and equipment that are sold to a person engaged in the  
41 commercial production of livestock, livestock products or agricultural,  
42 horticultural, viticultural or floricultural crops or products in this state  
43 and that are used directly and primarily to prevent, monitor, control or  
44 reduce air, water or land pollution.

1           21. Machinery or equipment that enables a television station to  
2 originate and broadcast or to receive and broadcast digital television  
3 signals and that was purchased to facilitate compliance with the  
4 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
5 Code section 336) and the federal communications commission order issued  
6 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does  
7 not exempt any of the following:

8           (a) Repair or replacement parts purchased for the machinery or  
9 equipment described in this paragraph.

10          (b) Machinery or equipment purchased to replace machinery or equipment  
11 for which an exemption was previously claimed and taken under this paragraph.

12          (c) Any machinery or equipment purchased after the television station  
13 has ceased analog broadcasting, or purchased after November 1, 2009,  
14 whichever occurs first.

15          C. The deductions provided by subsection B of this section do not  
16 include sales of:

17           1. Expendable materials. For purposes of this paragraph, expendable  
18 materials do not include any of the categories of tangible personal property  
19 specified in subsection B of this section regardless of the cost or useful  
20 life of that property.

21           2. Janitorial equipment and hand tools.

22           3. Office equipment, furniture and supplies.

23           4. Tangible personal property used in selling or distributing  
24 activities, other than the telecommunications transmissions described in  
25 subsection B, paragraph 16 of this section.

26           5. Motor vehicles required to be licensed by this state, except buses  
27 or other urban mass transit vehicles specifically exempted pursuant to  
28 subsection B, paragraph 11 of this section, without regard to the use of such  
29 motor vehicles.

30           6. Shops, buildings, docks, depots and all other materials of whatever  
31 kind or character not specifically included as exempt.

32           7. Motors and pumps used in drip irrigation systems.

33          D. In addition to the deductions from the tax base prescribed by  
34 subsection A of this section, there shall be deducted from the tax base the  
35 gross proceeds of sales or gross income derived from sales of machinery,  
36 equipment, materials and other tangible personal property used directly and  
37 predominantly to construct a qualified environmental technology  
38 manufacturing, producing or processing facility as described in section  
39 41-1514.02. This subsection applies for ten full consecutive calendar or  
40 fiscal years after the start of initial construction.

41          E. In computing the tax base, gross proceeds of sales or gross income  
42 from retail sales of heavy trucks and trailers does not include any amount  
43 attributable to federal excise taxes imposed by 26 United States Code section  
44 4051.

1 F. In computing the tax base, gross proceeds of sales or gross income  
2 from the sale of use fuel, as defined in section 28-5601, does not include  
3 any amount attributable to federal excise taxes imposed by 26 United States  
4 Code section 4091.

5 G. If a person is engaged in an occupation or business to which  
6 subsection A of this section applies, the person's books shall be kept so as  
7 to show separately the gross proceeds of sales of tangible personal property  
8 and the gross income from sales of services, and if not so kept the tax shall  
9 be imposed on the total of the person's gross proceeds of sales of tangible  
10 personal property and gross income from services.

11 H. If a person is engaged in the business of selling tangible personal  
12 property at both wholesale and retail, the tax under this section applies  
13 only to the gross proceeds of the sales made other than at wholesale if the  
14 person's books are kept so as to show separately the gross proceeds of sales  
15 of each class, and if the books are not so kept, the tax under this section  
16 applies to the gross proceeds of every sale so made.

17 I. A person who engages in manufacturing, baling, crating, boxing,  
18 barreling, canning, bottling, sacking, preserving, processing or otherwise  
19 preparing for sale or commercial use any livestock, agricultural or  
20 horticultural product or any other product, article, substance or commodity  
21 and who sells the product of such business at retail in this state is deemed,  
22 as to such sales, to be engaged in business classified under the retail  
23 classification. This subsection does not apply to businesses classified  
24 under the:

- 25 1. Transporting classification.
- 26 2. Utilities classification.
- 27 3. Telecommunications classification.
- 28 4. Pipeline classification.
- 29 5. Private car line classification.
- 30 6. Publication classification.
- 31 7. Job printing classification.
- 32 8. Prime contracting classification.
- 33 9. Owner builder sales classification.
- 34 10. Restaurant classification.

35 J. The gross proceeds of sales or gross income derived from the  
36 following shall be deducted from the tax base for the retail classification:

37 1. Sales made directly to the United States government or its  
38 departments or agencies by a manufacturer, modifier, assembler or repairer.

39 2. Sales made directly to a manufacturer, modifier, assembler or  
40 repairer if such sales are of any ingredient or component part of products  
41 sold directly to the United States government or its departments or agencies  
42 by the manufacturer, modifier, assembler or repairer.

43 3. Overhead materials or other tangible personal property that is used  
44 in performing a contract between the United States government and a  
45 manufacturer, modifier, assembler or repairer, including property used in



1 performing a subcontract with a government contractor who is a manufacturer,  
2 modifier, assembler or repairer, to which title passes to the government  
3 under the terms of the contract or subcontract.

4 4. Sales of overhead materials or other tangible personal property to  
5 a manufacturer, modifier, assembler or repairer if the gross proceeds of  
6 sales or gross income derived from the property by the manufacturer,  
7 modifier, assembler or repairer will be exempt under paragraph 3 of this  
8 subsection.

9 K. There shall be deducted from the tax base fifty per cent of the  
10 gross proceeds or gross income from any sale of tangible personal property  
11 made directly to the United States government or its departments or agencies,  
12 which is not deducted under subsection J of this section.

13 L. The department shall require every person claiming a deduction  
14 provided by subsection J or K of this section to file on forms prescribed by  
15 the department at such times as the department directs a sworn statement  
16 disclosing the name of the purchaser and the exact amount of sales on which  
17 the exclusion or deduction is claimed.

18 M. In computing the tax base, gross proceeds of sales or gross income  
19 does not include:

20 1. A manufacturer's cash rebate on the sales price of a motor vehicle  
21 if the buyer assigns the buyer's right in the rebate to the retailer.

22 2. The waste tire disposal fee imposed pursuant to section 44-1302.

23 N. There shall be deducted from the tax base the amount received from  
24 sales of solar energy devices, but the deduction shall not exceed five  
25 thousand dollars for each solar energy device. Before deducting any amount  
26 under this subsection, the retailer shall register with the department as a  
27 solar energy retailer. By registering, the retailer acknowledges that it  
28 will make its books and records relating to sales of solar energy devices  
29 available to the department for examination.

30 O. In computing the tax base in the case of the sale or transfer of  
31 wireless telecommunications equipment as an inducement to a customer to enter  
32 into or continue a contract for telecommunications services that are taxable  
33 under section 42-5064, gross proceeds of sales or gross income does not  
34 include any sales commissions or other compensation received by the retailer  
35 as a result of the customer entering into or continuing a contract for the  
36 telecommunications services.

37 P. For the purposes of this section, a sale of wireless  
38 telecommunications equipment to a person who holds the equipment for sale or  
39 transfer to a customer as an inducement to enter into or continue a contract  
40 for telecommunications services that are taxable under section 42-5064 is  
41 considered to be a sale for resale in the regular course of business.

42 Q. Retail sales of prepaid calling cards or prepaid authorization  
43 numbers for telecommunications services, including sales of reauthorization  
44 of a prepaid card or authorization number, are subject to tax under this  
45 section.

1           R. For the purposes of this section, the diversion of gas from a  
2 pipeline by a person engaged in the business of operating a natural or  
3 artificial gas pipeline, for the sole purpose of fueling compressor equipment  
4 to pressurize the pipeline, is not a sale of the gas to the operator of the  
5 pipeline.

6           S. If a seller is entitled to a deduction pursuant to subsection B,  
7 paragraph 16, subdivision (b) of this section, the department may require the  
8 purchaser to establish that the requirements of subsection B, paragraph 16,  
9 subdivision (b) of this section have been satisfied. If the purchaser cannot  
10 establish that the requirements of subsection B, paragraph 16, subdivision  
11 (b) of this section have been satisfied, the purchaser is liable in an amount  
12 equal to any tax, penalty and interest which the seller would have been  
13 required to pay under article 1 of this chapter if the seller had not made a  
14 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this  
15 section. Payment of the amount under this subsection exempts the purchaser  
16 from liability for any tax imposed under article 4 of this chapter and  
17 related to the tangible personal property purchased. The amount shall be  
18 treated as transaction privilege tax to the purchaser and as tax revenues  
19 collected from the seller to designate the distribution base pursuant to  
20 section 42-5029.

21           T. For purposes of section 42-5032.01, the department shall separately  
22 account for revenues collected under the retail classification from  
23 businesses selling tangible personal property at retail:

24           1. On the premises of a multipurpose facility that is owned, leased or  
25 operated by the tourism and sports authority pursuant to title 5, chapter 8.

26           2. At professional football contests that are held in a stadium  
27 located on the campus of an institution under the jurisdiction of the Arizona  
28 board of regents.

29           U. IN COMPUTING THE TAX BASE FOR THE SALE OF A MOTOR VEHICLE TO A  
30 NONRESIDENT OF THIS STATE, IF THE PURCHASER'S STATE OF RESIDENCE ALLOWS A  
31 CORRESPONDING USE TAX EXEMPTION TO THE TAX IMPOSED BY ARTICLE 1 OF THIS  
32 CHAPTER AND THE RATE OF THE TAX IN THE PURCHASER'S STATE OF RESIDENCE IS  
33 LOWER THAN THE RATE PRESCRIBED IN ARTICLE 1 OF THIS CHAPTER, AND THE  
34 NONRESIDENT HAS SECURED A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT  
35 FOR THE VEHICLE AS PRESCRIBED BY SECTIONS 28-2154 AND 28-2154.01, THERE SHALL  
36 BE DEDUCTED FROM THE TAX BASE A PORTION OF THE GROSS PROCEEDS OR GROSS INCOME  
37 FROM THE SALE SO THAT THE AMOUNT OF TRANSACTION PRIVILEGE TAX THAT IS PAID IN  
38 THIS STATE IS EQUAL TO THE EXCISE TAX THAT IS IMPOSED BY THE PURCHASER'S  
39 STATE OF RESIDENCE ON THE NONEXEMPT SALE OR USE OF THE MOTOR VEHICLE.

40           ~~U.~~ V. For the purposes of this section:

41           1. "Aircraft" includes:

42           (a) An airplane flight simulator that is approved by the federal  
43 aviation administration for use as a phase II or higher flight simulator  
44 under appendix H, 14 Code of Federal Regulations part 121.

1 (b) Tangible personal property that is permanently affixed or attached  
2 as a component part of an aircraft that is owned or operated by a  
3 certificated or licensed carrier of persons or property.

4 2. "Other accessories and related equipment" includes aircraft  
5 accessories and equipment such as ground service equipment that physically  
6 contact aircraft at some point during the overall carrier operation.

7 3. "Selling at retail" means a sale for any purpose other than for  
8 resale in the regular course of business in the form of tangible personal  
9 property, but transfer of possession, lease and rental as used in the  
10 definition of sale mean only such transactions as are found on investigation  
11 to be in lieu of sales as defined without the words lease or rental.

12 ~~V.~~ W. For purposes of subsection J of this section:

13 1. "Assembler" means a person who unites or combines products, wares  
14 or articles of manufacture so as to produce a change in form or substance  
15 without changing or altering the component parts.

16 2. "Manufacturer" means a person who is principally engaged in the  
17 fabrication, production or manufacture of products, wares or articles for use  
18 from raw or prepared materials, imparting to those materials new forms,  
19 qualities, properties and combinations.

20 3. "Modifier" means a person who reworks, changes or adds to products,  
21 wares or articles of manufacture.

22 4. "Overhead materials" means tangible personal property, the gross  
23 proceeds of sales or gross income derived from which would otherwise be  
24 included in the retail classification, and which are used or consumed in the  
25 performance of a contract, the cost of which is charged to an overhead  
26 expense account and allocated to various contracts based upon generally  
27 accepted accounting principles and consistent with government contract  
28 accounting standards.

29 5. "Repairer" means a person who restores or renews products, wares or  
30 articles of manufacture.

31 6. "Subcontract" means an agreement between a contractor and any  
32 person who is not an employee of the contractor for furnishing of supplies or  
33 services that, in whole or in part, are necessary to the performance of one  
34 or more government contracts, or under which any portion of the contractor's  
35 obligation under one or more government contracts is performed, undertaken or  
36 assumed and that includes provisions causing title to overhead materials or  
37 other tangible personal property used in the performance of the subcontract  
38 to pass to the government or that includes provisions incorporating such  
39 title passing clauses in a government contract into the subcontract.

1           Sec. 4. Effective date; conditional enactment

2           A. This act is effective from and after September 30, 2004 only if on  
3 or before September 30, 2004 the legislature appropriates \$37,000 from the  
4 state highway fund to the department of transportation for fiscal year  
5 2004-2005 to cover implementation costs.

6           B. The director of the department of transportation shall immediately  
7 notify in writing the director of the Arizona legislative council if the  
8 condition is met or not met.